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JUDGE SCHEINDLIN

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

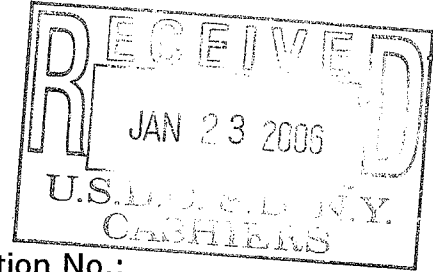
MG PREP, INC. d/b/a MANHATTAN
GMAT

Plaintiff,

v.

MANHATTAN REVIEW LLC,

Defendant.



Civil Action No.:

COMPLAINT

Plaintiff, MG Prep, Inc. d/b/a Manhattan GMAT (hereinafter "MG"), by its attorneys, as and for its Complaint against defendant, alleges as follows:

THE PARTIES

1. MG is a corporation organized and existing under the laws of the State of New York, having its principal place of business at 138 W. 25th Street, New York, NY 10001.

2. Upon information and belief, Defendant Manhattan Review LLC (hereinafter "MR") is a limited liability company of the State of New York having its principal place of business at 420 Lexington Avenue, Suite 2310, New York, NY 10170.

JURISDICTION AND VENUE

3. This is an action for unfair competition and false designation of origin. This action arises under the Trademark Laws of the United States, 15 U.S.C. § 1125(a). This Court has jurisdiction under 28 U.S.C. § 1338. Venue is proper in this district under the provisions of 28 U.S.C. §§ 1391.

FIRST CAUSE OF ACTION: TRADEMARK INFRINGEMENT / UNFAIR COMPETITION

4. Plaintiff MG is headquartered in New York City. It offers test preparation classes and related services for persons intending to take the GMAT test, and has done so since June, 2000.

5. MG and its predecessors in interest have always done business under the name "Manhattan GMAT" or "Manhattan GMAT Prep," and has advertised its

services via its website, which may be accessed at the unique and distinctive domain name www.manhattangmat.com. MG registered and began using its domain name in July 2000.

6. Through continuous use of the mark "Manhattan GMAT" to denote its high quality preparation services, and through location of its website at the domain name www.manhattangmat.com, consumers of test preparation services have come to associate the mark and the domain name with MG.

7. MG owns the distinctive trademarks MANHATTAN GMAT and MANHATTAN GMAT PREP.

8. Upon information and belief, Defendant MR is headquartered in New York City and offers test preparation services under the name "Manhattan Review."

9. Upon information and belief, MR's services include preparation for the GMAT test.

10. Upon information and belief, MR began offering its services after MG had already established itself as a source for GMAT test preparation services, and

MR was aware of MG, the services it offered, and the MG website located at its domain name.

11. Upon information and belief, in or about May 2005 MR obtained ownership of and began using the confusingly similar domain name www.manhattengmat.com. The domain name used by MR is identical to MG's domain name, except for "manhatten," which is a common misspelling of "manhattan."

12. Consumers who misspell the address of MG's website by substituting "manhatten" for "manhattan" are directed to a website maintained by MR which prominently features MR's name, as well as a link to MR's main website.

13. Upon information and belief, in or about May 2005 MR obtained ownership of and began using the confusingly similar domain name www.manhattan-gmat.com. The domain name used by MR is identical to MG's domain name, except for the presence of a hyphen.

14. Consumers who misspell the address of MG's website by substituting "manhattan-gmat" for "manhattangmat" are directed to a website maintained by MR which prominently features MR's name, as well as a link to MR's main website.

15. MR is a direct competitor of MG. By its acts as described above, MR seeks to confuse consumers of test preparation services and improperly divert business from MG.

16. Defendant MR's acts constitute trademark infringement and unfair competition.

17. All of Defendant MR's acts, as set forth in this Complaint, were without permission, license or consent of MG.

18. Defendants' acts of trademark infringement and unfair competition have been willful. Such acts of infringement continue and have caused and continue to cause MG irreparable injury, as well as monetary damages in an amount as yet undetermined.

19. Unless enjoined by this Court, Defendant will continue its acts of infringement.

20. MG has no adequate remedy at law.

SECOND CAUSE OF ACTION: FALSE DESIGNATION OF ORIGIN

21. Plaintiff repeats and realleges each and every allegation contained in Paragraphs 1 through 20, as if set forth herein in full.

22. Defendant MR's acts are in violation of §43(a) of the Lanham Act, 15 U.S.C. § 1125(a). Such acts constitute a false designation of origin and a misrepresentation in commerce as to the source and origin of Defendant's services.

23. Defendants' acts of false designation of origin have been willful. Such acts continue and have caused and continue to cause MG irreparable injury, as well as monetary damages in an amount as yet undetermined.

24. Unless enjoined by this Court, Defendant will continue its acts of false designation of origin.

THIRD CAUSE OF ACTION: CYBERPIRACY

25. Plaintiff repeats and realleges each and every allegation contained in Paragraphs 1 through 24, as if set forth herein in full.

26. Defendant MR's acts are in violation of §43(d) of the Lanham Act, 15 U.S.C. § 1125(d). Such acts constitute intentional diversion of consumers from MG's online location for commercial gain by creating a likelihood of confusion as to the source and sponsorship of the website and of MR's services.

27. MR has acted as complained of herein with a bad faith intent to profit from MG's mark.

28. Defendants' acts of cyberpiracy have been willful. Such acts continue and have caused and continue to cause MG irreparable injury, as well as monetary damages in an amount as yet undetermined.

29. Unless enjoined by this Court, Defendant will continue its acts of cyberpiracy.

30. Plaintiff is entitled to an award of attorneys' fees, as this is an exceptional case.

WHEREFORE, Plaintiff MG Prep, Inc. respectfully requests that this Court grant it a Judgment:

a. Enjoining Defendant, its directors, agents, employees, servants, related companies, licensees, assigns, and all parties in privity with them, or any of them preliminarily, during the pendency of this action, and permanently from infringing Plaintiff's trademarks MANHATTAN GMAT and MANHATTAN GMAT PREP., including infringement by use of domain names that are confusingly similar to Plaintiff's www.manhattangmat.com domain name.

b. Ordering Defendant to transfer ownership of the domain names www.manhattengmat.com, www.manhattan-gmat.com, and any other domain names owned or used by Defendant which are confusingly similar to Plaintiff's domain name www.manhattangmat.com to Plaintiff.

c. ordering Defendant to pay to Plaintiff damages suffered by Plaintiff as a result of Defendant's infringement of the aforesaid trademarks, an amount which has not yet been determined, and damages for the aforesaid false designation of origin and unfair competition;

d. awarding Plaintiff damages enhanced as provided by law for willful trademark infringement;

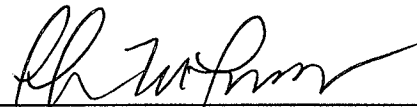
e. awarding Plaintiff statutory damages for violation of 15 U.S.C. 1125 (d)(1) (Cyberpiracy) as provided in 15 U.S.C. 1117(d).

f. ordering Defendant to pay to Plaintiff the costs of this action including a reasonable attorney's fee; and

h. awarding Plaintiff such other and further relief as the Court may deem just, proper and equitable.

Dated: New York, New York
January 19, 2006

MG PREP, INC.

By: 
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